



Nevada State Board of Medical Examiners

*** * * M I N U T E S * * ***

OPEN SESSION BOARD MEETING

Conference Room at the Offices of the
NEVADA STATE BOARD OF MEDICAL EXAMINERS
1105 Terminal Way, Suite 301
Reno, Nevada 89502

FRIDAY, SEPTEMBER 7, 2001
and
SATURDAY, SEPTEMBER 8, 2001

FRIDAY, SEPTEMBER 7, 2001

MEMBERS PRESENT:

Cheryl A. Hug-English, M.D., President
Jaculine C. Jones, Ed.D., Vice President
Joel N. Lubritz, M.D., Secretary-Treasurer
Sohail U. Anjum, M.D.
Marlene J. Kirch
Stephen K. Montoya, M.D.

MEMBERS ABSENT:

Paul A. Stewart, M.D. *
Donald H. Baepler, Ph.D., D.Sc. *
Robin L. Titus, M.D. *

* members of the Investigative Committee that filed the
Complaints in the cases to be adjudicated on Friday,

September

7, 2001

STAFF PRESENT:

Larry D. Lessly, J.D., Executive Director
Maureen E. Lyons, Deputy Executive Director
Richard J. Legarza, J.D., General Counsel
Robert A. Frantz, Financial Manager
Helena J. Teeple, Administrative Assistant

ALSO PRESENT:

Charlotte M. Bible, J.D., Assistant Chief Deputy Attorney
General

AGENDA ITEM 1

Call to Order - Cheryl A. Hug-English, M.D., President

- Introduction of New Board Members: Sohail U. Anjum, M.D., Marlene J. Kirch, Stephen K. Montoya, M.D.
- Announcement of Reappointment to Board: Joel N. Lubritz, M.D.

The meeting was called to order by Cheryl A. Hug-English, President, at 4:47 p.m.

Dr. Hug-English welcomed Dr. Anjum, Mrs. Kirch and Dr. Montoya to the board, and congratulated Dr. Lubritz on his reappointment.

AGENDA ITEM 2

Approval of Minutes

- June 1 & 2, 2001 Board Meeting - Open/Executive Sessions
- August 17, 2001 Telephone Conference Call Board Meeting - Open Session

Dr. Lubritz moved to accept the minutes of the June 1 & 2, 2001 Board Meeting - Open/Executive Sessions and August 17, 2001 Telephone Conference Call Board Meeting - Open Session. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 5

Consideration of Acceptance of Stipulation for Settlement in the Matter of the Nevada State Board of Medical Examiners vs. Elliott D. Schmerler, M.D., Case No. 00-9279-1

Adjudicating Board Members: Cheryl A. Hug-English, M.D., President; Jacqueline C. Jones, Ed.D., Vice President; Joel N. Lubritz, M.D., Secretary-Treasurer; Sohail U. Anjum, M.D.; Marlene J. Kirch; and Stephen K. Montoya, M.D.

Dr. Hug-English confirmed that all adjudicating members were present and prepared to consider acceptance of the Stipulation for Settlement in the matter of the Nevada State Board of Medical Examiners vs. Elliott D. Schmerler, M.D., Case No. 00-9279-1.

Mr. Legarza reviewed for members the points of the Complaint and proposed Stipulation for Settlement in the matter. He advised that he and the Investigative Committee recommend the board's acceptance of the proposed Stipulation for Settlement.

Dr. Lubritz moved to accept the Stipulation for Settlement in the matter of the Nevada State Board of Medical Examiners vs. Elliott D. Schmerler, M.D., Case No. 00-9279-1. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 6

Consideration of Acceptance of Stipulation for Settlement in the Matter of the Nevada State Board of Medical Examiners vs. Christopher Von Dippe, M.D., Case No. 01-7730-1

Adjudicating Board Members: Cheryl A. Hug-English, M.D., President; Jaculine C. Jones, Ed.D., Vice President; Joel N. Lubritz, M.D., Secretary-Treasurer; Sohail U. Anjum, M.D.; Marlene J. Kirch; and Stephen K. Montoya, M.D.

Dr. Hug-English confirmed that all adjudicating members were present and prepared to consider acceptance of the Stipulation for Settlement in the matter of the Nevada State Board of Medical Examiners vs. Christopher Von Dippe, M.D., Case No. 01-7730-1.

Mr. Legarza reviewed for members the points of the Complaint and proposed Stipulation for Settlement in the matter. He advised that he and the Investigative Committee recommend the board's acceptance of the proposed Stipulation for Settlement.

Dr. Jones moved to accept the Stipulation for Settlement in the matter of the Nevada State Board of Medical Examiners vs. Christopher Von Dippe, M.D., Case No. 01-7730-1. Mrs. Kirch seconded the motion, and it passed, with Dr. Montoya opposed to the motion, and the Chair voting in favor of the motion.

AGENDA ITEM 7

Adjudication in the Matter of the Nevada State Board of Medical Examiners vs. Dusan J. Surman, M.D., Case No. 01-4155-1

Adjudicating Board Members: Cheryl A. Hug-English, M.D., President; Jaculine C. Jones, Ed.D., Vice President; Joel N. Lubritz, M.D., Secretary-Treasurer; Sohail U. Anjum, M.D.; Marlene J. Kirch; and Stephen K. Montoya, M.D.

Dr. Hug-English confirmed that all adjudicating members were present and prepared to adjudicate the matter of the Nevada State Board of Medical Examiners vs. Dusan J. Surman, M.D., Case No. 01-4155-1.

Dr. Lubritz moved to go into Executive Session to deliberate on the single count of the Complaint. Dr. Montoya seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Montoya moved to find Dusan J. Surman, M.D. guilty of the single count of the Complaint, a violation of NRS 630.301(3), voluntary withdrawal from the practice of medicine in Oregon while under investigation by Oregon's medical board. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lubritz moved to go into Executive Session to deliberate on the possible sanctions which would be appropriate in this matter. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Montoya moved to issue Dusan J. Surman, M.D. a public reprimand and to order that he pay all costs associated with the investigation and prosecution of the case against him. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 8

Adjudication in the Matter of the Nevada State Board of Medical Examiners vs. Catherine N. Noel-Uyloan, M.D., Case No. 01-11942-1

Adjudicating Board Members: Cheryl A. Hug-English, M.D., President; Jaculine C. Jones, Ed.D., Vice President; Joel N. Lubritz, M.D., Secretary-Treasurer; Sohail U. Anjum, M.D.; Marlene J. Kirch; and Stephen K. Montoya, M.D.

Dr. Hug-English confirmed that all adjudicating members were present and prepared to adjudicate the matter of the Nevada State Board of Medical Examiners vs. Catherine N. Noel-Uyloan, M.D., Case No. 01-11942-1.

Mrs. Kirch moved to go into Executive Session to deliberate on the single count of the Complaint. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Lubritz moved to find Catherine N. Noel-Uyloan, M.D. guilty of the single count of the Complaint, a violation of NRS 630.301(3), because of revocation of her license to practice medicine in California, stay of the revocation, and probation for a term of seven years. Dr. Montoya seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Lubritz moved to go into Executive Session to deliberate on the possible sanctions which would be appropriate in this matter. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Mrs. Kirch moved to revoke the license to practice medicine in the state of Nevada of Catherine N. Noel-Uyloan, M.D. and to order that she pay all costs associated with the investigation and prosecution of the case against her. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 9

Adjudication in the Matter of the Nevada State Board of Medical Examiners vs. Augusto Loaiza, M.D., Case No. 01-7144-1

Adjudicating Board Members: Cheryl A. Hug-English, M.D., President; Jaculine C. Jones, Ed.D., Vice President; Joel N. Lubritz, M.D., Secretary-Treasurer; Sohail U. Anjum, M.D.; Marlene J. Kirch; and Stephen K. Montoya, M.D.

Dr. Hug-English confirmed that all adjudicating members were present and prepared to adjudicate the matter of the Nevada State Board of Medical Examiners vs. Augusto Loaiza, M.D., Case No. 01-7144-1.

Dr. Lubritz moved to go into Executive Session to deliberate on count one of the Complaint. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Montoya moved to find Augusto Loaiza, M.D. guilty of count one of the Complaint, a violation of NRS 630.301(3), because of revocation of his license to practice medicine in California, stay of the revocation, and probation for a term of seven years. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to go into Executive Session to deliberate on count two of the Complaint. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Jones moved to find Augusto Loaiza, M.D. guilty of count two of the Complaint, a violation of NRS 630.306(11), because of failure to report to the Nevada State Board of Medical Examiners the revocation of his license to practice medicine in California within the thirty day time period allowed. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Anjum moved to go into Executive Session to deliberate on the possible sanctions which would be appropriate in this matter. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Montoya moved to revoke the license to practice medicine in the state of Nevada of Augusto Loaiza, M.D. and to order that he pay all costs associated with the investigation and prosecution of the case against him. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 10

Adjudication in the Matter of the Nevada State Board of Medical Examiners vs. Robert Z. McFarland, M.D., Case No. 01-9195-1

Adjudicating Board Members: Cheryl A. Hug-English, M.D., President; Jaculine C. Jones, Ed.D., Vice President; Joel N. Lubritz, M.D., Secretary-Treasurer; Sohail U. Anjum, M.D.; Marlene J. Kirch; and Stephen K. Montoya, M.D.

Dr. Hug-English confirmed that all adjudicating members were present and prepared to adjudicate the matter of the Nevada State Board of Medical Examiners vs. Robert Z. McFarland, M.D., Case No. 01-9195-1.

Mrs. Kirch moved to go into Executive Session to deliberate on count one of the Complaint. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Jones moved to find Robert Z. McFarland, M.D. guilty of count one of the Complaint, a violation of NRS 630.304(1), engaging in the act of attempting to renew a license to practice medicine by fraud or misrepresentation or by false, misleading, inaccurate or incomplete statement by answering “no” to question number eleven on his application for renewal registration dated April 15, 1999. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Montoya moved to go into Executive Session to deliberate on count two of the Complaint. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Montoya moved to find Robert Z. McFarland, M.D. not guilty of count two of the Complaint, the alleged violation of NRS 630.306(2)(a), as it was not conclusively determined that he engaged in conduct to deceive by answering “no” to question no. eleven on his application for renewal registration dated April 15, 1999. Dr. Jones seconded the motion, and it passed, with Dr. Lubritz opposing the motion and the Chair voting in favor of the motion.

Dr. Montoya moved to go into Executive Session to deliberate on the possible sanctions which would be appropriate in this matter. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Upon returning to Open Session, Dr. Jones moved to issue Robert Z. McFarland, M.D. a public reprimand and to order that he pay all costs associated with the investigation and prosecution of the case against him. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

RECESS

Dr. Hug-English recessed the meeting for the evening at 6:30 p.m.

SATURDAY, SEPTEMBER 8, 2001

MEMBERS PRESENT:

Cheryl A. Hug-English, M.D., President
Jaculine C. Jones, Ed.D., Vice President
Joel N. Lubritz, M.D., Secretary-Treasurer
Paul A. Stewart, M.D.
Donald H. Baepler, Ph.D., D.Sc.
Sohail U. Anjum, M.D.
Marlene J. Kirch
Stephen K. Montoya, M.D.

MEMBERS ABSENT:

Robin L. Titus, M.D.

STAFF PRESENT:

Larry D. Lessly, J.D., Executive Director
Maureen E. Lyons, Deputy Executive Director
Richard J. Legarza, J.D., General Counsel
Robert A. Frantz, Financial Manager
Helena J. Teeple, Administrative Assistant
Angelia L. Brandes, Receptionist (left at 3:30 p.m.)
Elizabeth A. Zarubi, Senior License Specialist (arrived at
12:30 p.m. and left at 2:30 p.m.)

ALSO PRESENT:

Charlotte M. Bible, J.D., Assistant Chief Deputy Attorney
General
John B. Lanzillotta, P.A.-C, Physician Assistant Advisor
Steven E. Kessinger, C.R.T.T., Respiratory Care

Practitioner

Advisor
Nancy E. Munoz, P.A.-C, Physician Assistant Advisor

AGENDA ITEM 3

Announcement of Committee Appointments - Cheryl A. Hug-English, M.D., President
- Internal Affairs Committee
- Committee Chairperson and Members to Study Post-Licensure Continuing Competency
Evaluation

Dr. Hug-English announced the following committee
appointments:

Internal Affairs Committee: Dr. Jones, Chairperson; Dr. Stewart; and Dr. Lubritz

Committee to Study Post-Licensure Continuing Competency Evaluation: Dr. Baepler, Chairperson; Dr. Stewart; Dr. Hug-English (ex-officio member); Arne D. Rosencrantz, former board member; and Susan S. Buchwald, M.D., former board member *

* Dr. Hug-English asked whether any other board members would like to serve on the Committee to Study Post-Licensure Continuing Competency Evaluation. Dr. Lubritz and Dr. Montoya indicated that they would like to serve on the committee. Dr. Hug-English appointed Dr. Lubritz and Dr. Montoya to serve on the Committee to Study Post-Licensure Continuing Competency Evaluation.

Dr. Hug-English announced that a meeting of the Committee to Study Post-Licensure Continuing Competency Evaluation would be held at the board office on October 24, 2001, and that members of the Federation of State Medical Boards of the United States, Inc. would be attending the meeting.

AGENDA ITEM 4

Consideration of Amendment to Nevada Administrative Code Chapter 630

- Change to Continuing Medical Education Requirements for Physicians

Mr. Legarza advised that the Investigative Committee recommends that the board considers amending NAC chapter 630 to include a provision which would allow the board to waive continuing medical education hours for those Nevada licensed physicians who perform peer reviews for the board. He stated that should the board choose to amend NAC chapter 630 to include such a provision, the amendment would be added to the proposed amendments to be heard at the public workshops already scheduled to be held September 13 and 14, 2001.

After some discussion, Dr. Baepler moved to approve the addition of the amendment, as recommended by the Investigative Committee, to the amendments to NAC chapter 630 scheduled to be heard at the public workshops, with the addition of the language: "not to exceed twenty hours." Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 11

Personnel

Executive Session to Discuss Professional Competency of:

- Robert A. Frantz, Financial Manager

Dr. Stewart moved to go into Executive Session to discuss the professional competency of Robert A. Frantz, Financial Manager. Dr. Lubritz seconded the motion, and it passed unanimously.

Open Session to Set Equity Adjustment of Salary for:
- Robert A. Frantz, Financial Manager

Upon returning to Open Session, Dr. Stewart moved to grant a \$2,480.00 increase in annual compensation, effective retroactively to July 1, 2001, to Robert A. Frantz, Financial Manager, for his good efforts during the biennial registration period. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 12

Consideration of Request of Thomas J. Brumfield, M.D., for Removal of Restrictions from His License No. 2051 to Practice Medicine in the State of Nevada

Dr. Brumfield appeared before the board to request the board's consideration of allowing him to obtain a DEA certificate. He explained that the restrictions placed on his license by the board in 1998, when the board approved his license status change from inactive to active but restricted him from prescribing, administering or dispensing controlled substances and prohibited him from obtaining a DEA certificate, are causing problems for some of his patients when they attempt to have his prescriptions for non-controlled substances filled and paid for by their insurance companies. He further explained that the procedure followed by some pharmacies and insurance companies requires that a DEA certificate number appear on all prescriptions, even those for non-controlled substances, prior to the filling of the prescriptions or payment of the insurance company claims for the prescriptions. He added that he would also like to begin prescribing some Schedule 3, 4 and 5 drugs such as cough syrup and mild diazepam, but the current restrictions on his license prohibit such prescribing. He also mentioned that his lack of a DEA certificate number has caused him to be unable to register for some on-line continuing medical education courses.

Discussion ensued regarding the circumstances surrounding Dr. Brumfield's request, with consensus being that the board requires additional information to properly consider his request. Consensus also was that the board would like to help Dr. Brumfield with his current problems, but would not necessarily be in favor of restoring his controlled substance prescribing privileges.

Dr. Lubritz moved to table this agenda item until the December board meeting when more information would be made available for consideration. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Hug-English directed Dr. Brumfield to provide the board at its December meeting with detailed information about exactly why some of his patients' prescriptions are not being filled and/or claims are not being paid. She directed staff to also provide information at the December board meeting as to whether it is possible for a practitioner to obtain a DEA certificate that would limit the controlled substances the practitioner would be allowed to prescribe.

AGENDA ITEM 13

Consideration of Request of Rodney G. Handsfield, M.D. to Restore His License No. 5354 to Practice Medicine in the State of Nevada

Dr. Handsfield appeared before the board and requested the board's consideration of restoring his license to practice medicine in Nevada, which license the board suspended on October 6, 1999, due to his impairment problems. He advised that he is a drug addict and an alcoholic, but has been sober for two years and is currently participating in recovery programs and the board's Diversion Program.

Mr. Legarza gave a brief history of Dr. Handsfield's problems, the resulting action taken by the board in 1999, and his current situation. He added that he feels Dr. Handsfield to be an example of a success of the board's Diversion program and recommended the reinstatement of his license by the board.

When questioned by Dr. Stewart about what his plans for practice were, should the board reinstate his license, Dr. Handsfield stated that he has kept up with his continuing medical education, but has really not practiced in three years, and would like to practice non-surgical office Urology and possibly perform vasectomies and removal of venereal warts.

Mr. Legarza asked Dr. Handsfield whether he would waive the 21-day notice required by Nevada's Open Meeting Law so that the board may go into Executive Session to discuss him and his request. Dr. Handsfield stated that he waives the notice.

Dr. Montoya moved to go into Executive Session to discuss Dr. Handsfield and his request for reinstatement of his license to practice medicine in Nevada.

Upon returning to Open Session, Dr. Stewart moved that, since Dr. Handsfield appears to be in good recovery, the board reinstate his license to practice medicine in Nevada, but restrict him to office practice with the ability to perform only the surgical procedures of vasectomies, removal of venereal warts, diagnostic cystoscopies, and any other surgical procedures that would be approved in advance by the Investigative Committee or the Chair of the Investigative Committee, until the board's March meeting, at which time the board will reevaluate his situation and make any changes to his practice restrictions that it deems necessary. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Hug-English advised Dr. Handsfield that the board is impressed by his efforts to be forthright about his problems and, as a result, has shown the board that he is in true recovery.

AGENDA ITEM 14

Consideration of Request from Carlos E. Fonte, M.D. for Approval of Medical Training Per NRS 630.047(1) - (tabled at 8/17/01 telephone conference meeting)

Dr. Hug-English briefly reviewed the history of this agenda item, stating that it was tabled at the board's August 17, 2001 telephone conference meeting pending receipt of additional information and explanation from Dr. Fonte about the medical training he is requesting the board to approve. She referred members to Dr. Fonte's recent letter in the agenda book providing the information and explanation requested by the board.

Dr. Montoya moved to approve the medical training as requested by Dr. Fonte, with the stipulation that he modifies the patient consent form by listing on the form the names of the surgeon and assisting surgeons who will be performing the surgery, and states on the form that the surgery is part of a training program and that someone other than himself will be performing the surgical procedure while he observes. Mrs. Kirch seconded the motion, and it passed unanimously with the Chair voting in favor of the motion.

Dr. Hug-English directed staff to notify Dr. Fonte of the board's decision that he amend his patient consent form and to direct him to forward his amended patient consent form to the board for approval prior to the start of the medical training.

AGENDA ITEM 15

Petition for Approval to Allow Simultaneous Collaboration/Supervision of More than Three Advanced Practitioners of Nursing/Physician Assistants per NAC 630.495(2)- (tabled at 8/17/01 telephone conference meeting)

- Jeffrey A. Wrightson, M.D.

Mrs. Lyons distributed copies of a recent letter from Cheryl L. Sonnenberg, Ph.D., Administrator, Health Services Division, Economic Opportunity Board of Clark County, written on behalf of Dr. Wrightson, in which she described in detail the reasons for which Dr. Wrightson should be approved to and his ability to competently collaborate with/supervise more than three advanced practitioners of nursing/physician assistants, which detailed description was requested by the board at the August 17, 2001 telephone conference meeting when this agenda item was tabled.

Dr. Baepler moved to approve Dr. Wrightson's petition and to allow him to collaborate with/supervise more than three advanced practitioners of nursing/physician assistants for an interim, if the interim is defined as a "one year period." Dr. Baepler amended his motion to include that Dr. Wrightson be allowed to collaborate with/supervise four advanced practitioners of nursing/physician assistants for an interim, if the interim is defined as a "one year period." Dr. Anjum seconded the amended motion, and it passed, with Dr. Montoya abstaining from the vote due to a conflict of interest and the Chair voting in favor of the motion.

AGENDA ITEM 18

Acceptance of Applications for Licensure - Appearances on Saturday, September 8, 2001 at 9:00 a.m. or as soon thereafter as they may be heard

Executive Session

Dr. Anjum moved to go into Executive Session to discuss the character and professional competence of applicants for licensure. The motion was seconded by Dr. Montoya, and it passed unanimously.

18 (a) Shaheen Ali, M.D.

Upon returning to Open Session, Dr. Lubritz moved to accept Shaheen Ali, M.D.'s application for limited licensure to participate in a PGY-1 Internal Medicine training program at the University of Nevada School of Medicine . Dr. Montoya seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Legarza advised that Dr. Ali confirmed to him that he understands that his approval today for limited licensure does not guarantee automatic approval by the board of any application he may make in the future for full unrestricted medical licensure in Nevada.

Dr. Baepler moved to return to Executive Session for the same purposes stated before. Dr. Stewart seconded the motion, and it passed unanimously.

18 (b) Robert Chancellor, M.D.

Upon returning to Open Session, Dr. Stewart moved to table Robert Chancellor, M.D.'s application for licensure until the December 2001 or March 2002 board meeting. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Montoya moved to return to Executive Session for the same purposes stated before. Dr. Jones seconded the motion, and it passed unanimously.

18 (c) Joseph Harris, M.D.

Upon returning to Open Session, Dr. Montoya moved to accept Joseph Harris, M.D.'s application for licensure. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Executive Session for the same purposes stated before. Dr. Jones seconded the motion, and it passed unanimously.

Ms. Zarubi arrived at the meeting at 12:30 p.m.

18 (d) Anthony Woodward, M.D.

Upon returning to Open Session, Dr. Lubritz moved to accept Anthony Woodward, M.D.'s application for licensure restricted to the performance of independent medical evaluations. Dr. Stewart seconded the motion, and it passed, with the Chair voting in favor of the motion.

RECESS

The meeting recessed for lunch at 1:07 p.m.

Dr. Hug-English reconvened the meeting at 1:47 p.m.

AGENDA ITEM 16

Consideration of Request of David A. Rosin, M.D., State Medical Director, Division of Mental Health and Developmental Services, to Waive Nevada State Medical Licensure Laws

David A Rosin, M.D. appeared before the board with the Deputy Attorney General appointed to the Division of Mental Health and Developmental Services (DMHDS) to address the board regarding the difficulty the DMHDS is experiencing in its recruitment and hiring of Psychiatrists to adequately provide services for mentally ill indigents in Nevada.

The Deputy Attorney General to the DMHDS stated that the DMHDS understands that Nevada's medical licensure laws cannot be waived to help alleviate the difficulties the DMHDS is experiencing. She stated that she and Dr. Rosin are present to "brainstorm" with the board on any possible solutions to the DMHDS's dilemma.

Dr. Rosin advised that the DMHDS is currently seeking out other recruitment measures to hire Psychiatrists and has eight applicants pending.

Discussion ensued, with Dr. Hug-English suggesting that the DMHDS consider utilizing mid-level practitioners, physicians from specialties other than Psychiatry, or resident physicians, if the DMHDS is unable to successfully recruit the number of Psychiatrists that are required to successfully accomplish the goals of the DMHDS.

Dr. Baepler advised that the board is willing to assist the DMHDS with its predicament, as it has done in the past. He moved to deny the DMHDS's request for the board to consider waiving the current medical licensure laws. Dr. Lubritz moved to amend the motion to deny the DMHDS's request for the board to consider waiving the current medical licensure laws as, by statute, the board cannot waive the laws. Dr. Lubritz seconded the amended motion, and it passed unanimously, with the Chair voting in favor of the motion.

Ms. Zarubi left the meeting at 2:30 p.m.

AGENDA ITEM 23

Consideration of Request by Nevada State Medical Association for Change to NAC 630.230(l) and NAC 630.230(m)

- Marjorie L. Uhalde, Ph.D., M.D., President, Nevada State Medical Association

Ralph Coppola, M.D. appeared before the board on behalf of Dr. Uhalde to address the board regarding the pain regulations per NAC 630.230(l) and NAC 630.230(m) and the Nevada State Medical Association's request for the board to consider changing the regulations. He stated that there is much confusion in the medical community concerning the intent and interpretation of the regulations.

Dr. Stewart explained the meaning of the regulations and how they specifically address chronic pain. Dr. Hug-English stated that the guidelines referred to in the regulations are designed to assist in, not encumber, the prescribing practice for chronic pain.

Dr. Coppola suggested that the board place an article in its next newsletter explaining the regulations in clear and simple detail, to end any confusion being experienced by the medical community with the true meaning of the regulations.

E. Weldon Havins, M.D., Executive Director of the Clark County Medical Society, appeared before the board and stated that he insists that the board remove NAC 630.231(m), as it is confusing.

Dr. Lubritz accused Dr. Havins of having "stirred up the pot" in the medical community concerning this matter and other matters. He stated that he feels Dr. Havins to be the "trouble-starter" creating problems "behind the scenes" instead of bringing issues up front to be addressed by the board. Dr. Baepler agreed with Dr. Lubritz's feelings and referred to a recent letter written by Dr. Havins and distributed throughout the medical community in which he insinuated that board staff added language to the regulations "behind the board's back," to which statement there is no merit. Dr. Lubritz added that the board would like to experience a good relationship with the state's medical societies and is not "out to get" doctors. Dr. Stewart added his feeling that there seems to be paranoia on the part of the Nevada State Medical Association toward the board.

Dr. Stewart moved that the board, in its next newsletter, include an article explaining the board's pain regulations in "layman's terms" and to deny the request of the Nevada State Medical Association to change NAC 630.230(l) and NAC 630.230(m). Dr. Baepler seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 19

Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status Approved Since the September 7 & 8, 2001 Board Meeting

Dr. Stewart moved to ratify the licenses issued, and reinstatements of licensure and changes of licensure status approved since the September 7 & 8, 2001 board meeting. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

AGENDA ITEM 17

Acceptance of Application for Licensure - Non-Appearance

- Gary Siegel, M.D.

Mr. Lessly explained that, currently, White Pine County is not medically underserved; however, two physicians in that county may be leaving in November of 2001, which would leave the county medically underserved. He stated that Gary Siegel, M.D. has completed only two years of ACGME postgraduate training and is applying for county restricted licensure per NRS 630.164 to work in White Pine County if and when that county becomes medically underserved.

Dr. Jones moved to accept Gary Siegel, M.D.'s application for county restricted licensure, with his licensure effective upon the medically underserved designation of White Pine County. Dr. Montoya seconded the motion, and it passed, with the Chair voting in favor of the motion.

AGENDA ITEM 20

Reports

- Diversion Program: *Quarterly Report* - Carol R. Bowers, R.N., C.D., Executive Director, Nevada Health Professionals Assistance Foundation
- Physician Assistant Advisory Committee - Committee Representative
 - *Status of Subcommittee Study of Current Board Policies Regarding Supervising/Collaborating Physician Procedures* - Subcommittee Members: Physician Assistant Advisory Committee Members & Robin L. Titus, M.D.
- Practitioner of Respiratory Care Advisory Committee - Committee Representative
- Committee to Study Post-Licensure Continuing Competency Evaluation - Committee Representative
- Investigative Committee - Joel N. Lubritz, M.D., Chairperson
- Secretary-Treasurer - Joel N. Lubritz, M.D., Secretary-Treasurer
 - Robert A. Frantz, Financial Manager
- *Approval of Audit for Fiscal Year 2000-2001*
- Colorado Personalized Education for Physicians Program / Federation of State Medical Boards of the United States, Inc.- Paul A. Stewart, M.D.

- Diversion Program: *Quarterly Report* - Carol R. Bowers, R.N., C.D., Executive Director, Nevada Health Professionals Assistance Foundation

Ms. Bowers distributed and reviewed for members the Diversion Program Statistics as of September 8, 2001. She advised that there are currently 4 M.D.s in treatment, 2 new M.D.s under contract, and a total of 53 M.D. participants in the Diversion Program with 4 of them being treated for disruptive behavior impairment. She stated that F. Victor Rueckl, M.D., as the new Clinical Medical Director for the Nevada Health Professionals Assistance Foundation at a monthly salary of \$1.00, has been assisting her with presentations and interventions. She added that she and Dr. Rueckl have conducted 12 interventions since the last board meeting. She advised that she will present the Diversion Program's Annual Report at the board's December meeting.

Ms. Brandes left the meeting at 3:30 p.m.

- Physician Assistant Advisory Committee - Committee Representative
- Status of Subcommittee Study of Current Board Policies Regarding Supervising/Collaborating Physician Procedures - Subcommittee Members: Physician Assistant Advisory Committee Members & Robin L. Titus, M.D.

Mr. Lanzillotta reported that the subcommittee to study current board policies regarding supervising/collaborating physician procedures had not yet met, but that he had conducted a review of the National Commission on Certification of Physician Assistants' model guidelines and the board's current laws regarding physician assistant and supervising physician procedures. He reported that he concluded from his review that Nevada is current, and even progressive, with its laws and procedures regarding physician assistants and supervising physicians.

Dr. Hug-English directed that no further study of this matter need be performed.

- Practitioner of Respiratory Care Advisory Committee - Committee Representative

Mr. Kessinger reported on the progress of the licensing of practitioners of respiratory care to be completed by January 1, 2002. Mr. Lessly advised that the applications for practitioner of respiratory care licensure will be mailed to all known practitioners of respiratory care currently practicing in Nevada by October 1, 2001.

- Committee to Study Post-Licensure Continuing Competency Evaluation - Committee Representative

Dr. Baeppler reported on the history of the committee's activities and the committee's upcoming meeting with staff of the Federation of State Medical Boards of the United States, Inc. (FSMB) and National Board of Medical Examiners (NBME) to discuss the possibility of utilizing a specialty exam as part of the evaluation of post-licensure continuing competency, which exam would be designed by the NBME. Mr. Lessly added that the meeting

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with the FSMB and NBME will be held at the board office on October 24, 2001, is open to all board members, and he encouraged attendance at the meeting.

- Investigative Committee - Joel N. Lubritz, M.D., Chairperson

Dr. Lubritz reported that at its meeting held on August 17, 2001, the Investigative Committee filed no formal complaints, but recommends the closure of 53 cases. He distributed the cases recommended for closure by the Investigative Committee for members' review and consideration for closure.

**- Secretary-Treasurer - Joel N. Lubritz, M.D., Secretary-Treasurer
Robert A. Frantz, Financial Manager
- Approval of Audit for Fiscal Year 2000-2001**

Mr. Frantz distributed the board's *Profit & Loss Budget vs. Actual for July 2001 through June 2002* and *Balance Sheet as of September 8, 2001*, and reviewed them for the board. He also distributed and reviewed for members the board's *Financial Statements and Independent Auditors' Report for June 30, 2001 and 2000* as prepared by Solari and Sturmer, L.L.C., Certified Public Accountants. He requested the board's approval of the audit.

Mrs. Kirch moved to approve the audit for fiscal year 2000-2001 and authorize it to be filed as required by statute. Dr. Stewart seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Investigative Committee - Joel N. Lubritz, M.D., Chairperson (CONTINUED)

Dr. Stewart moved to close the cases recommended for closure by the Investigative Committee. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Colorado Personalized Education for Physicians Program / Federation of State Medical Boards of the United States, Inc.- Paul A. Stewart, M.D.

Dr. Stewart distributed information packets on the Colorado Personalized Education for Physicians Program and reported that he recently had the opportunity to visit the program's Denver facility and be given an overview of the program. He advised that the program has been in existence for eleven years and performs an average of 60 evaluations per year. He added that the program is currently financially supported by the Federation of State Medical Boards of the United States, Inc., and it is estimated that the program would need to perform 150 to 200 evaluations per year to become self-funded. Dr. Hug-English thanked Dr. Stewart for going to Denver to take a look at this program for the board.

AGENDA ITEM 21

Legal Reports - Richard J. Legarza, J.D., General Counsel
- Charlotte M. Bible, J.D., Assistant Chief Deputy Attorney General

- Board Ordered Terms, Conditions and Probation Status
- Board Litigation Status

- Board Litigation Status

Mrs. Bible reported that an outstanding Petition for Judicial Review is pending in Phillip M. Milgram, M.D.'s appeal of the board's disciplinary action taken against him. She advised that she will be filing a Motion to Dismiss, as Dr. Milgram's attorney did not file any Points and Authorities in the matter.

Mrs. Bible reported that the appeal of the Petition for Judicial Review filed by David B. Cohen, M.D. in his appeal of the board's disciplinary action taken against him was remanded back from the Nevada Supreme Court and the District Court will most likely remand the case back to the board for re-hearing.

Mr. Legarza advised that, on behalf of the board, he had filed Motions to Dismiss the Petition for Judicial Review filed by Pano Concha, M.D. and William O. Murray, M.D., respectively, of the board's actions taken against them, and that both the motions are still awaiting District Court decision.

- Board Ordered Terms, Conditions and Probation Status

Mr. Legarza reported that all licensees currently on disciplinary probation with the board are in compliance.

AGENDA ITEM 22

Executive Director's Report - Larry D. Lessly, J.D., Executive Director
- Maureen E. Lyons, Deputy Executive Director

- Consideration of Request for Staff Attendance at Educational Meetings
- Consideration of Proposed 2002 Board Meeting Schedule
- Consideration of Continuation of Contract with Nevada Broadcaster's Association for the Board's Public Service Announcement Program for October 1 through December 31, 2001
- Consideration of Draft Policy Statements for Internet Continuing Medical Education - Accreditation Council for Continuing Medical Education - Federation of State Medical Boards of the United States, Inc.
- Board Office Staff and Space Update
- Informational Items

- Consideration of Request for Staff Attendance at Educational Meetings

Mr. Lessly reported that there was no board representation at the 2001 Annual CLEAR Meeting and there will also be no representation at the Federation of State Medical Boards of the United States, Inc.'s 2001 Executive Management Training Session. He advised that he will be attending the United States Medical Licensing Examination's Committee on Irregular Behavior meeting next week and the Federation of State Medical Boards of the United States, Inc.'s upcoming Executive Director Advisory Committee meeting. He encouraged all members to attend the Federation of State Medical Boards of the United States, Inc.'s Regional Workshop to be held in Las Vegas on November 10, 2001. He reported that Dr. Baepler will be making the welcoming remarks at the Administrators in Medicine meeting to be held in Las Vegas on September 27, 2001. He advised that should any members wish to attend the Citizen Advocacy Center Annual Meeting to be held in November of 2001 in Philadelphia to please advise board staff of their intent. He requested authority for Mr. Legarza to send any members of his staff that he may deem appropriate to the Federation of State Medical Boards of the United States, Inc.'s Investigator Workshop to be held in Las Vegas on November 8 & 9, 2001.

Dr. Stewart moved to approve attendance by board staff at the Federation of State Medical Boards of the United States, Inc.'s Investigator Workshop to be held in Las Vegas on November 8 & 9, 2001 and by board member(s) at the Citizen Advocacy Center Annual Meeting to be held in November of 2001 in Philadelphia. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Consideration of Proposed 2002 Board Meeting Schedule

Dr. Baepler moved to approve the 2002 Board Meeting Schedule as proposed. Dr. Montoya seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Consideration of Continuation of Contract with Nevada Broadcaster's Association for the Board's Public Service Announcement Program for October 1 through December 31, 2001

Mr. Lessly referred members to the statistical reports from the Nevada Broadcaster's Association in the agenda book on the air time given the board's public service announcements during the last quarter. He reported that statistics seem to be somewhat down and advised that he will speak with Bob Fisher, President of Nevada Broadcaster's Association, to see that an improvement will occur.

Dr. Hug-English stated her feeling that the board should continue its contract through December of 2001, but would like to see an improvement in air time statistics by the end of that period.

Dr. Montoya moved to continue the board's contract with Nevada Broadcaster's Association for the period October 1 through December 31, 2001, at a cost of \$5,000.00 per month, with the stipulation that an improvement in air time statistics occurs during that time period. Dr. Jones seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Consideration of Draft Policy Statements for Internet Continuing Medical Education - Accreditation Council for Continuing Medical Education - Federation of State Medical Boards of the United States, Inc.

Mr. Lessly referred to the memorandum in the agenda book from the Federation of State Medical Boards of the United States, Inc. regarding the Accreditation Council for Continuing Medical Education's task force to identify accreditation-related issues concerning continuing medical education delivered via the Internet. He stated that should any members have comments concerning this issue to please forward them to him for forwarding to the Federation of State Medical Boards of the United States, Inc.

- Board Office Staff and Space Update

Mr. Lessly reported that the Licensing Department has completed its move to the second floor. He advised that Mr. Legarza is in the process of seeking a replacement for Bryce L. Rader, Investigator, who is no longer employed by the board.

- Informational Items

Mr. Frantz distributed copies of a letter received via facsimile machine by Dr. Stewart, addressed to Dr. Hug-English, from Arnold Wax, M.D. Mr. Lessly reviewed the letter for members stating that Dr. Wax is questioning the legalities of physicians licensed to practice in medically underserved areas caring for patients in hospitals that are not designated as medically underserved areas. Discussion ensued.

Dr. Lubritz directed Mr. Lessly to draft a response letter to Dr. Wax for Dr. Hug-English's signature.

AGENDA ITEM 24

Discussion and Consideration of Correspondence

- Letter Dated June 11, 2001, from John M. Nowins, M.D., President, Clark County Ob/Gyn Society

Discussion ensued regarding the letter apparently distributed via facsimile machine to all Ob/Gyn physicians in the Clark County Ob/Gyn Society on June 13, 2001.

Dr. Montoya stated his feeling that E. Weldon Havins, M.D., Executive Director of the Clark County Medical Society, initiated the letter and added that he feels the Clark County Ob/Gyn Society to be under Dr. Havins' influence with respect to matters involving the Nevada State Board of Medical Examiners.

AGENDA ITEM 25
Matters for Future Agenda

There was no discussion under this agenda item.

AGENDA ITEM 26
Public Comment

There was no public comment.

ADJOURNMENT

Dr. Hug-English adjourned the meeting at 5:15 p.m.